

§ 630.308(a) if coverage under paragraphs (a) and (b) of this section terminated during leave year 1999 and the employee can demonstrate that he or she was unable to comply with the advance scheduling requirement due to circumstances beyond his or her control.

[64 FR 46259, Aug. 25, 1999, as amended at 64 FR 72253, Dec. 27, 1999]

### Subpart D—Sick Leave

#### § 630.401 Grant of sick leave.

(a) Subject to paragraphs (b) through (e) of this section, an agency shall grant sick leave to an employee when the employee—

(1) Receives medical, dental, or optical examination or treatment;

(2) Is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth;

(3) Provides care for a family member who is incapacitated as the result of physical or mental illness, injury, pregnancy, or childbirth or who receives medical, dental or optical examination or treatment;

(4) Makes arrangements necessitated by the death of a family member or attends the funeral of a family member;

(5) Would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease; or

(6) Must be absent from duty for purposes relating to the adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed.

(b) The amount of sick leave granted to an employee during any leave year for the purposes described in paragraphs (a)(3) and (4) of this section may not exceed a total of 104 hours (or, in the case of a part-time employee or an employee with an uncommon tour of duty, the number of hours of sick leave normally accrued by that employee during a leave year).

(c) To be granted any sick leave for the purposes described in paragraphs (a) (3) or (4) of this section during any

leave year in an amount exceeding a total of 40 hours (or, in the case of a part-time employee or an employee with an uncommon tour of duty, the average number of hours in the employee's scheduled tour of duty each week), the employee concerned shall retain in his or her sick leave account a balance of at least 80 hours (or, in the case of a part-time employee or an employee with an uncommon tour of duty, an amount equal to twice the average number of hours in the employee's scheduled tour of duty each week). No sick leave may be advanced under 5 U.S.C. 6307(d) for the purpose of meeting the requirement to retain a minimum sick leave balance or for using additional sick leave for the purposes described in paragraphs (a) (3) and (4) of this section when such use would otherwise cause the employee's sick leave balance to fall below the minimum required.

(d) When sick leave is granted to an employee under the condition specified in paragraph (c) of this section, the amount of sick leave retained in the employee's sick leave account shall, in each instance, be at least equal to the minimum prescribed by paragraph (c) of this section after deducting the amount to be used for the purposes described in paragraphs (a)(3) and (4) of this section.

(e) If the number of hours in the employee's tour of duty is changed during the leave year, the employee's entitlement to use sick leave for the purposes described in paragraphs (a)(3) and (4) of this section shall be recalculated based on the employee's new tour of duty.

[59 FR 62271, Dec. 2, 1994, as amended at 59 FR 62274, Dec. 2, 1994; 59 FR 67125, Dec. 29, 1994; 60 FR 26979, May 22, 1995; 61 FR 64450, Dec. 5, 1996]

#### § 630.402 Application for sick leave.

An employee shall file a written application for sick leave within such time limits as the agency may require. An employee shall request advance approval for sick leave for the purposes of receiving medical, dental, or optical examination or treatment and, to the extent possible, for the purposes described in § 630.401(a) (3), (4), and (6).

[59 FR 62274, Dec. 2, 1994]